

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**BANCO POPULAR DE PUERTO RICO,  
INC.,**

**Plaintiff,**

V.

**CIVIL NO. 01-1142 (GAG)**

**LATIN AMERICAN MUSIC CO., INC., et al.,**

### **Defendants.**

**BANCO POPULAR DE PUERTO RICO,  
INC.**

**Plaintiff,**

V.

**LATIN AMERICAN MUSIC CO., INC., et al.,**

## **Defendants.**

## **MEMORANDUM OPINION AND ORDER**

On June 24, 2010, the cross-claim defendants LAMCO/ACEMLA (“LAMCO”) moved for dismissal of the Venegas party’s (“GVLI”) claim in the above captioned action (01-1142) against BPPR for an alleged breach of contract (Docket No. 525). LAMCO moved to dismiss this claim alleging that GVLI has failed to plead a valid breach of contract claim under Puerto Rico contract law. After reviewing the pleadings and pertinent law, the court **GRANTS** LAMCO’s motion to dismiss this claim.

GVLI's answer to the complaint (Docket No. 32) contains the cross-claim and counterclaims against the above-captioned parties. The counterclaim against BPPR contained the sole claim alleging that:

1 Civil No. 01-1142(GAG)

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3 BPPR has profited and continues to profit from the song Genesis of GVL[I].  
4 Therefore, BPPR owes an amount of monies to defendant, which at the time of this  
5 [sic] filing this answer, can not estimate, but may run unto many thousands of  
6 dollars.

7 (See Docket No. 32.) This language does not contain any of the allegations which GVL states in  
8 its pre-trial memorandum (See Docket No. 518 at 6-9). This court has previously ruled that the  
9 three year statute of limitations on copyright actions bars GVL from collecting upon BPPR's  
10 alleged infringing uses of the song Genesis.<sup>1</sup> (See Docket No. 410.) As GVL has failed to allege  
11 a valid breach of contract claim, the court **GRANTS** LAMCO's motion to dismiss this claim  
12 (Docket No. 525) and **DISMISSES** the same.

13 **SO ORDERED.**

14 In San Juan, Puerto Rico this 15th day of July, 2010.

15 *s/ Gustavo A. Gelpi*

16 GUSTAVO A. GELPI  
17 United States District Judge

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27 <sup>1</sup> GVL's response in opposition (Docket No. 384) contained a similar argument that the  
28 included counter-claim was one for breach of contract. The court considered this when assessing  
the previous motion for summary judgment yet dismissed the claim on statute of limitations grounds.  
(See Docket No 410.)